

**JOURNAL
OF
THE SENATE
SITTING AS A COURT OF IMPEACHMENT**

MONDAY, OCTOBER 1, 2018

THE STATE OF WEST VIRGINIA

VS

**ELIZABETH D. WALKER, JUSTICE OF THE
SUPREME COURT OF APPEALS OF THE STATE WEST VIRGINIA**

The Senate, sitting as a Court of Impeachment to consider proceedings against Elizabeth D. Walker, Justice of the Supreme Court of Appeals of the State of West Virginia, met on Monday, October 1, 2018, at 9:02 a.m.

The Honorable Paul T. Farrell, Acting Chief Justice of the Supreme Court of Appeals of the State of West Virginia, assumed the chair and presided over the Court of Impeachment.

Without objection, the Journal of the Court of Impeachment to consider proceedings against the various justices of the Supreme Court of Appeals of the State of West Virginia was considered as having been read and approved.

The Presiding Officer directed the Sergeant at Arms to make the following proclamation: All persons are commanded to keep silence, on pain of imprisonment, while the Senate is sitting as a Court of Impeachment.

The Managers, appointed by the House of Delegates to conduct the trial of impeachment of Elizabeth D. Walker, Justice of the Supreme Court of Appeals of the State of West Virginia, to wit: Delegates Shott, Hollen, Foster, Byrd, and Miller (Delegates Foster and Byrd, two of the said managers, being absent) took the seats assigned them.

Marsha Kaufmann and Kip Reese, counsel for the Managers of the House of Delegates, accompanied said Managers.

Respondent Elizabeth D. Walker, Justice of the Supreme Court of Appeals of the State of West Virginia, took the seat assigned her.

Mike Hissam and J. Zak Ritchie, counsel for respondent Justice Walker, accompanied Justice Walker.

The Presiding Officer then provided instructions to the members of the Court of Impeachment.

The Presiding Officer directed the Clerk of the Court of Impeachment to read Article XIV of the Articles of Impeachment. The Presiding Officer then noted that Justice Walker had previously denied the allegations contained in Article XIV of the Articles of Impeachment.

The Presiding Officer announced a motion had been filed by Ronald E. Wilson, Chair of the Judicial Investigation Commission, to quash the subpoena issued by the House of Delegates to appear before the Court of Impeachment to give evidence in the proceedings against Justice Walker. The Presiding Officer then stated an affidavit would be entered instead of Judge Wilson appearing before the Court to testify.

The Presiding Officer noted Justice Walker had filed a Motion to Dismiss Article XIV and a Motion in Limine to Preclude Evidence of Unimpeached Conduct.

Mike Hissam, counsel for Justice Walker, and John H. Shott, Chair of the House Managers, presented the argument and the response to the argument, respectively, to the said motions. Whereupon, the Presiding Officer denied the Motion to Dismiss and the Motion in Limine.

Delegate Shott presented the opening statement on behalf of the House Managers and Mike Hissam presented the opening statement on behalf of Elizabeth D. Walker, Justice of the Supreme Court of Appeals of the State of West Virginia.

At 10:07 a.m., the Court of Impeachment recessed for 15 minutes.

At 10:24 a.m., the Presiding Officer called the Court of Impeachment to order.

The Presiding Officer then directed John H. Shott, Chair of the House Managers, to call the first witness for the House Managers.

Delegate Shott requested a stipulation that the parties agree that all of the exhibits that have been submitted be deemed authenticated and admissible, to which the respondent's counsel did not oppose.

Delegate Shott called Elizabeth D. Walker, Justice of the Supreme Court of Appeals of the State of West Virginia, as the first witness for the House Managers.

Whereupon, Justice Walker took the witness stand and was administered the oath by the Clerk of the Court of Impeachment.

Delegate Shott requested that, pursuant to Rule 611(c) of the Rules of Evidence, he be permitted to treat Justice Walker as a hostile witness, which request was denied by the Presiding Officer.

Delegate Shott then conducted a direct examination of Justice Walker and presented various evidentiary exhibits.

At 11:28 a.m., the Court of Impeachment recessed until 12:30 p.m. today.

At 12:32 p.m., the Presiding Officer called the Court of Impeachment to order.

The Presiding Officer noted questions had arisen about Rule 20 of the Rules of the West Virginia Senate While Sitting as a Court of Impeachment During the Eighty-Third Legislature and explained the process the Court of Impeachment would follow to permit the members to ask questions of the witnesses.

Mike Hissam, counsel for Justice Walker, stated he had informed Delegate Shott he may exceed the scope of direct during the cross-examination of Justice Walker in the interest of time and efficiency.

Justice Walker resumed the stand and was cross-examined by Mike Hissam who presented various evidentiary exhibits.

Delegate Shott then conducted a re-direct of Justice Walker.

Members of the Court of Impeachment presented questions to the Presiding Officer, who then posed the questions to Justice Walker.

Justice Walker was then excused.

Following points of inquiry to the Presiding Officer, with resultant responses thereto,

At 1:48 p.m., the Court of Impeachment recessed for 15 minutes.

At 2:06 p.m., the Presiding Officer called the Court of Impeachment to order.

Delegate Shott called Justin Robinson, Director of the Legislative Post-Audit Division, as a witness for the House Managers.

Whereupon, Justin Robinson took the witness stand and was administered the oath by the Clerk of the Court of Impeachment.

Delegate Shott conducted a direct examination of Justin Robinson and presented various evidentiary exhibits.

J. Zak Ritchie, counsel for Justice Walker, then cross-examined Justin Robinson.

A member of the Court of Impeachment presented a question to the Presiding Officer, who then posed the question to Justin Robinson.

Justin Robinson was then excused.

Marsha Kaufmann, attorney for the House Managers, called Sue Racer-Troy, Chief Financial Officer for the Supreme Court of Appeals of the State of West Virginia, as a witness for the House Managers.

The Presiding Officer directed the Sergeant at Arms to summon Sue Racer-Troy.

Sue Racer-Troy took the witness stand and was administered the oath by the Clerk of the Court of Impeachment.

Marsha Kaufmann conducted a direct examination of Sue Racer-Troy and presented various evidentiary exhibits.

Mike Hissam, counsel for Justice Walker, cross-examined Sue Racer-Troy.

Marsha Kaufmann then conducted a re-direct of Sue Racer-Troy.

Members of the Court of Impeachment presented questions to the Presiding Officer, who then posed the questions to Sue Racer-Troy.

Sue Racer-Troy was then excused.

Marsha Kaufmann called John B. McCuskey, State Auditor, as a witness for the House Managers.

Whereupon, John B. McCuskey took the stand and was administered the oath by the Clerk of the Court of Impeachment.

Marsha Kaufmann conducted a direct examination of John B. McCuskey and presented an evidentiary exhibit.

There being no cross-examination or questions from the members of the Court of Impeachment, John B. McCuskey was excused.

There being no further witnesses today,

At 3:19 p.m., the Court of Impeachment to consider proceedings against Elizabeth D. Walker, Justice of the Supreme Court of Appeals of the State of West Virginia, adjourned until tomorrow, Tuesday, October 2, 2018, at 9 a.m.
